

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Caroline Alesiani

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Caren N. Gurmankin, Esq., Console Mattiacci Law,
1525 Locust Street, 9th Fl., Philadelphia, PA 19102

DEFENDANTS

Educational Commission For Foreign Medical Graduates

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

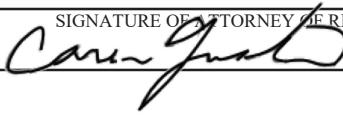
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability	PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	PERSONAL PROPERTY	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 385 Property Damage Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights	Habeas Corpus:	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input checked="" type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	FEDERAL TAX SUITS	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
V. ORIGIN (Place an "X" in One Box Only)				
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)
				<input type="checkbox"/> 6 Multidistrict Litigation - Transfer
				<input type="checkbox"/> 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. §12101 et seq.

Brief description of cause:
Plaintiff was discriminated against based on her disability.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ in excess of \$75,000 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD
05/11/2021 

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: _____ Philadelphia, PA 19147

Address of Defendant: _____ 3624 Market Street, Philadelphia, PA 19104

Place of Accident, Incident or Transaction: _____ 3624 Market Street, Philadelphia, PA 19104

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

I certify that, to my knowledge, the within case is / is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 05/11/2021


Attorney-at-Law / Pro Se Plaintiff

205900

Attorney I.D. # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases:

1. Indemnity Contract, Marine Contract, and All Other Contracts
 2. FELA
 3. Jones Act-Personal Injury
 4. Antitrust
 5. Patent
 6. Labor-Management Relations
 7. Civil Rights
 8. Habeas Corpus
 9. Securities Act(s) Cases
 10. Social Security Review Cases
 11. All other Federal Question Cases
(Please specify): _____

B. Diversity Jurisdiction Cases:

1. Insurance Contract and Other Contracts
 2. Airplane Personal Injury
 3. Assault, Defamation
 4. Marine Personal Injury
 5. Motor Vehicle Personal Injury
 6. Other Personal Injury (Please specify): _____
 7. Products Liability
 8. Products Liability – Asbestos
 9. All other Diversity Cases
(Please specify): _____

I, Caren N. Gurmankin, counsel of record or pro se plaintiff, do hereby certify:

Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs.
 Relief other than monetary damages is sought.

DATE: 05/11/2021


Attorney-at-Law / Pro Se Plaintiff

205900

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

CAROLINE ALESIANI	:	CIVIL ACTION
	:	
v.	:	
EDUCATIONAL COMMISSION FOR FOREIGN MEDICAL GRADUATES	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

05/11/2021

Date

215-545-7676



Attorney-at-law

215-405-2900

Plaintiff, Caroline Alesiani

Attorney for

gurmankin@consolelaw.com

Telephone

FAX Number

E-Mail Address

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA**

CAROLINE ALESIANI	:	
Philadelphia, PA 19147	:	
	:	CIVIL ACTION NO.
Plaintiff,	:	
	:	
v.	:	
	:	
EDUCATIONAL COMMISSION FOR	:	
FOREIGN MEDICAL GRADUATES	:	
3624 Market Street	:	
Philadelphia, PA 19104	:	
	:	
	:	JURY TRIAL DEMANDED
Defendant.	:	
	:	

COMPLAINT

I. INTRODUCTION

Plaintiff, Caroline Alesiani, brings this action against her former employer, Educational Commission for Foreign Medical Graduates (“Defendant”). Shortly after learning that Plaintiff, a thirty (30) year employee with an excellent employment record, had to go out on medical leave to undergo surgery in connection with her (prior) breast cancer treatment, Defendant discriminated against Plaintiff based upon the same. Plaintiff went out on approved medical leave due to Defendant’s discriminatory conduct and was, eventually, terminated after she was medically unable to return to work.

Defendant engaged in discriminatory conduct towards Plaintiff in violation of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.* (“ADA”), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* (“PHRA”), and the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1101, *et seq.* (“PFPO”).

II. PARTIES

1. Plaintiff, Caroline Alesiani, is an individual and a citizen of the Commonwealth of Pennsylvania.

2. Defendant, Educational Commission for Foreign Medical Graduates, is incorporated in Pennsylvania, and has a principal place of business at 3624 Market Street, Philadelphia, PA 19104.

3. Defendant is engaged in an industry affecting interstate commerce and regularly does business in the Commonwealth of Pennsylvania.

4. At all times material hereto, Defendant employed more than fifteen (15) employees.

5. At all times material hereto, Defendant acted by and through its authorized agents, servants, workmen, and/or employees acting within the course and scope of their employment with Defendant and in furtherance of Defendant's business.

6. At all times material hereto, Defendant acted as an employer within the meaning of the statutes which form the basis of this matter.

7. At all times material hereto, Plaintiff was an employee of Defendant within the meaning of the statutes which form the basis of this matter.

III. JURISDICTION AND VENUE

8. The causes of action which form the basis of this matter arise under the ADA, the PHRA, and the PFPO.

9. The District Court has jurisdiction over Count I (ADA) pursuant to 28 U.S.C. § 1331.

10. The District Court has supplemental jurisdiction over Count II (PHRA)

and Count III (PFPO) pursuant to 28 U.S.C. § 1367.

11. Venue is proper in the District Court under 28 U.S.C. §1391(b)

12. On or about August 27, 2018, Plaintiff filed a Complaint of Discrimination with the Pennsylvania Human Relations Commission (“PHRC”), complaining of acts of discrimination and retaliation alleged herein. This Complaint was cross-filed with the Equal Employment Opportunity Commission (“EEOC”). Attached hereto, incorporated herein, and marked as Exhibit “1” is a true and correct copy of the PHRC Complaint of Discrimination (with personal identifying information redacted).

13. On or about February 11, 2021, the EEOC issued to Plaintiff a Notice of Right to Sue for her Complaint of Discrimination. Attached hereto, incorporated herein, and marked as Exhibit “2” is a true and correct copy of the Notice of Right to Sue (with personal identifying information redacted).

14. Plaintiff has fully complied with all administrative prerequisites for the commencement of this action.

IV. FACTUAL ALLEGATIONS

15. Plaintiff began working at Defendant in around March 1988. She last held the position of Operations Supervisor.

16. At all times material hereto, Plaintiff consistently performed her duties in a highly competent manner.

17. In or around January 2017, Plaintiff started reporting to Jennifer Rule, Operations Director. Rule reported to Kara Corrado, Vice President for Operations.

18. In or around March 2018, Plaintiff informed Defendant that she had to undergo surgery related to her previous breast cancer diagnosis. Plaintiff told Defendant

that the surgery was scheduled for September 2018, and that she expected that she would need to take medical leave to recover from the same.

19. Plaintiff had been diagnosed with breast cancer in around 2013. She had undergone multiple surgeries in connection with the same, including a total mastectomy, the surgical removal of her breasts, and including reconstruction of her breasts.

20. Prior to 2018, Plaintiff had not had to undergo any surgeries or treatments in connection with her breast cancer since around 2014/2015.

21. The surgery that Plaintiff had to undergo in September 2018 was to correct an abdominal bulge that had developed in connection with portions of the abdominal wall and fatty tissue that was removed in order to reconstruct her breasts after her mastectomy.

22. As Plaintiff understood it, the surgery that she was to undergo in September 2018 was also expected to alleviate pain and discomfort that she had been having due to the abdominal bulge as well as improving her ability to lift items, an activity in which she had been restricted since her earlier surgeries.

23. After Plaintiff informed Defendant of issues related to her medical condition, and need to take medical leave in connection with the same, in around March 2018, Defendant treated her worse than it had previously, including that which is set forth below.

24. Rule was hostile and dismissive with Plaintiff in a way that she had not been prior to Plaintiff informing Defendant of her medical condition and need for medical leave, and in a way that she did not demonstrate with her non-disabled direct reports. By way of example only:

(a) Rule told other supervisors to copy her on email exchanges with

Plaintiff so that she could check Plaintiff's writing and communication skills;

- (b) Rule told Plaintiff how to supervise her staff, including what specific instructions to give them and tasks to assign to them;
- (c) Rule undermined Plaintiff's authority in front of her staff, including by speaking to Plaintiff in a condescending and hostile tone that made it clear that she did not respect or trust Plaintiff;
- (d) Rule scrutinized Plaintiff's work and decisions in a way that indicated that she believed that Plaintiff was not competent to do her job; and,
- (e) Rule was dismissive of Plaintiff's opinions and recommendations regarding her team and her work.

25. On or about July 2, 2018, Defendant issued Plaintiff a Performance Expectations write-up, i.e., a performance warning.

26. During the meeting in which Rule gave Plaintiff the performance write-up, it was clear to Plaintiff that Defendant was trying to pressure her to resign her employment before she went out on a medical leave of absence in September.

27. The performance write-up included references to issues or incidents that had, in some cases, occurred months earlier, and Defendant had not indicated to Plaintiff that they were concerning or evidence of deficient performance at that time.

28. The performance write-up stated that Plaintiff's failure to meet expectations as set forth in the write-up "may lead to further corrective action, up to and including termination."

29. The July 2018 write-up was the first time that Defendant had issued Plaintiff a performance write-up throughout her thirty years of employment.

30. In January 2018, Plaintiff had received her annual performance evaluation from Defendant. Consistent with her other evaluations during her employment, both the rating and the feedback were positive.

31. On or about July 9, 2018, and at Rule's instruction, Plaintiff met with Rule, again, regarding the performance write-up.

32. Rule's hostile and dismissive conduct towards Plaintiff at the July 9th meeting again, made it clear to Plaintiff that Defendant was trying to pressure her to resign her employment before she went out on a medical leave of absence in September.

33. On or about July 31, 2018, Plaintiff went out on an approved medical leave of absence due to medically-diagnosed stress and anxiety that she was experiencing as a result of Defendant's discriminatory conduct.

34. On or about August 3, 2018, Plaintiff advised Defendant of her belief that Defendant issued her performance write-up to her on the basis of her medical condition and need for medical leave, especially considering that her last review, in January 2018, had been positive.

35. Defendant responded acknowledging that it had received Plaintiff's complaint that she was being treated unfavorably due to her medical condition and request for medical leave and that, upon her return to work, it would set up a meeting, including with Rule, to discuss the same.

36. Defendant did not further respond to Plaintiff's complaints regarding the discriminatory treatment to which she was subjected.

37. On or about August 28, 2018, Plaintiff advised Defendant that she had filed a Complaint with the PHRC.

38. After Plaintiff was unable to return to work as a result of Defendant's discriminatory conduct, Defendant terminated her employment effective October 14, 2019.

39. The hostile work environment to which Defendant subjected Plaintiff caused and exacerbated her medical problems and caused Plaintiff to take her medical leave of absence.

40. Plaintiff's actual and/or perceived disability and/or record of impairment was a motivating and/or determinative factor in Defendant's discriminatory treatment of Plaintiff.

41. Plaintiff was subjected to severe and/or pervasive conduct that interfered with her ability to perform her job duties and was not welcomed by Plaintiff, thereby creating a hostile work environment.

42. As a direct and proximate result of the discriminatory conduct of Defendant, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings and/or earning capacity, loss of benefits, pain and suffering, embarrassment, humiliation, loss of self-esteem, mental anguish, and loss of life's pleasures, the full extent of which is not known at this time.

43. Defendant acted with malice, reckless indifference, and/or deliberate indifference to Plaintiff's protected rights.

COUNT I – ADA

44. Plaintiff incorporates herein by reference paragraphs 1 through 43 above, as if set forth at length herein.

45. Defendant, by the above discriminatory and harassing acts, has violated

the ADA.

46. Defendant's violation of the ADA was intentional and willful warranting the imposition of punitive damages.

47. As a direct and proximate result of Defendant's violation of the ADA, Plaintiff has sustained the injuries, damages, and losses set forth herein.

48. No previous application has been made for the relief requested herein.

COUNT II – PHRA

49. Plaintiff incorporates herein by reference paragraphs 1 through 48 above, as if set forth herein in their entirety.

50. Defendant, by the above improper and discriminatory acts, has violated the PHRA.

51. Said violations were intentional and willful.

52. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorneys' fees and costs.

53. Plaintiff is now suffering and will continue to suffer irreparable injuries and monetary damages as a result of Defendant's discriminatory acts unless and until the Court grants the relief requested herein.

54. No previous application has been made for the relief requested herein.

COUNT III – PFPO

55. Plaintiff incorporates herein by reference paragraphs 1 through 54 above, as if set forth herein in their entirety.

56. Defendant, by the above improper and discriminatory and retaliatory acts, has violated the PFPO.

57. Said violations were intentional and willful.

58. As a direct and proximate result of Defendant's violation of the PFPO, Plaintiff has sustained the injuries, damages, and losses set forth herein and has incurred attorney's fees and costs.

59. Plaintiff is now suffering and will continue to suffer irreparable injuries and monetary damages as a result of Defendant's discriminatory acts unless and until the Court grants the relief requested herein.

60. No previous application has been made for the relief requested herein.

RELIEF

WHEREFORE, Plaintiff seeks damages and legal and equitable relief in connection with Defendant's improper conduct, and specifically prays that the Court grant the following relief to the Plaintiff by:

- (a) declaring the acts and practices complained of herein to be in violation of the ADA;
- (b) declaring the acts and practices complained of herein to be in violation of the PHRA;
- (c) declaring the acts and practices complained of herein to be in violation of the PFPO;
- (d) enjoining and permanently restraining the violations alleged herein;
- (e) entering judgment against the Defendant and in favor of the Plaintiff in an amount to be determined;

(f) awarding compensatory damages to make the Plaintiff whole for all lost earnings, earning capacity, and benefits, past and future, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct;

(g) awarding compensatory damages to Plaintiff for past and future pain and suffering, emotional upset, mental anguish, humiliation, and loss of life's pleasures, which Plaintiff has suffered or may suffer as a result of Defendant's improper conduct;

(h) awarding punitive damages to Plaintiff under the ADA;

(i) awarding Plaintiff such other damages as are appropriate under the ADA, the PHRA, and the PFPO;

(j) awarding Plaintiff the costs of suit, expert fees, and other disbursements, and reasonable attorneys' fees; and,

(k) granting such other and further relief as this Court may deem just, proper, or equitable including other equitable and injunctive relief providing restitution for past violations and preventing future violations.

CONSOLE MATTIACCI LAW, LLC

Dated: May 11, 2021

BY:


Caren N. Gurmankin (205900)
1525 Locust Street, 9th Floor
Philadelphia, PA 19102
(215) 545-7676

Attorney for Plaintiff,
Caroline Alesiani

Exhibit “1”

COMMONWEALTH OF PENNSYLVANIA

GOVERNOR'S OFFICE

PENNSYLVANIA HUMAN RELATIONS COMMISSION

Caroline Alesiani, :
Complainant :
v. : PHRC Case No. 201800752
: :
Educational Commission for Foreign : EEOC No. 17F201960165
Medical Graduates,
Respondent :
: :
:

COMPLAINT

JURISDICTION

1. Jurisdiction is pursuant to the Pennsylvania Human Relations Act 43 P.S. §§ 951-963.

PARTIES

2. The Complainant herein is:

Caroline Alesiani
redacted
Philadelphia, PA 19147

3. The Respondent herein is:

Educational Commission for Foreign Medical Graduates
3624 Market Street
Philadelphia, PA 19104

COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE
PENNSYLVANIA HUMAN RELATIONS COMMISSION

COMPLAINT

COMPLAINANT:

CAROLINE ALESIANI

Docket No. 201800752

v.

RESPONDENT:

EDUCATIONAL COMMISSION FOR
FOREIGN MEDICAL GRADUATES

1. The Complainant herein is:

Name: Caroline Alesiani

Address: redacted
Philadelphia, PA 19147



2. The Respondent herein is:

Name: Educational Commission for Foreign Medical Graduates

Address: 3624 Market Street
Philadelphia, PA 19104

3. I, Caroline Alesiani, the Complainant herein, allege that I was subjected to unlawful discrimination because of my disability (including history of and regarded as), as set forth below:

Discrimination

A. I specifically allege:

[1] I was hired by Respondent in or about March 1988. I am a current employee of Respondent. I consistently perform my job duties in a highly competent manner.

[2] I report to Jennifer Rule, Operations Director. Rule reports to Kara Corrado, Vice President for Operations, who reports to Lisa Cover, Senior Vice President for Business Development and Operations.

[3] I hold the position of Operations Supervisor.

[4] I began reporting to Rule in or about January 2017.

[5] In or about January 2018, I received a positive performance evaluation.

[6] In or about February 2018, I informed Respondent that I require surgery to make corrections to a mastectomy I had due to my breast cancer. I informed Respondent that my surgery is scheduled for September 2018, and that I would be going on a medical leave of absence for my surgery and recovery.

[7] On or about July 2, 2018, in a meeting with Rule, Respondent issued to me a Performance Expectations write-up. I was blindsided. During the meeting, it was clear to me that Rule was trying to get me to leave Respondent, and resign from my employment with Respondent, before I went out on a medical leave of absence in September 2018.

[8] On or about July 9, 2018, I met with Rule with regard to the Performance Expectations write-up. The Performance Expectations write-up contained false statements and mischaracterizations.

[9] Before July 2, 2018, I had no indication that Respondent allegedly found my performance deficient.

[10] Rule treated me differently, and in a more hostile and dismissive manner, than she treated her nondisabled¹ direct reports, including John Daniels, Operations Supervisor, Stephen Hymns, Information Technology Operations, and Stephen Haldis, Quality Assurance Coordinator. I am more qualified than Daniels to perform my job duties.

¹ References herein to an employee not having a disability are to the best of my knowledge.

[11] On July 31, 2018, I went out on a medical leave of absence due to the stress, anxiety, and worsened psoriasis I was experiencing, caused by the hostile work environment to which Respondent has subjected me because of my disability. I remain on a medical leave of absence.

[12] On August 3, 2018, I sent an email to Respondent, including Rule, Corrado, and Helen Ann Lisowski, Human Resources Business Partner, stating the following: "I was blindsided by the Performance Expectations write-up I received on July 9, 2018. I do not understand why I was given [a] write-up because I received a positive/good performance evaluation in January 2018. In March, I notified the company of my medical condition and the need for a brief leave of absence. The only reason I can point to [for] the write up is my medical condition and my need for a leave of absence."

[13] On August 7, 2018, I received a response from Corrado, acknowledging my August 3, 2018 email. Respondent did not deny that the only reason for issuing to me the Performance Expectations write-up was my medical condition and my need for a leave of absence.

[14] Respondent discriminated against me based on my disability in issuing to me a Performance Expectations write-up, subjecting me to a hostile work environment, and failing to engage in an interactive process with me and/or accommodate me for my disability.

B. Based on the aforementioned, I allege that Respondent has discriminated against me because of disability (including history of and regarded as), in violation of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.* ("ADA"), the Pennsylvania Human Relations Act, as amended, 43 P.S. § 951, *et seq.* ("PHRA"), and the Philadelphia Fair Practices Ordinance, Phila. Code § 9-1101, *et seq.* ("PFPO").

4. The allegations in Paragraph 3 hereof constitute unlawful discriminatory practices in violation of:

Pennsylvania Human Relations Act (Act of October 27, 1955, P.L.

744; as amended) Section 5 Subsection(s): (a)

Section 5.1 Subsection(s) _____

Section 5.2 Subsection(s) _____

Pennsylvania Fair Educational Opportunities Act (Act of July 17, 1961, P.L. 766, as amended) Section 4 Subsection(s) _____

5. Other action based upon the aforesaid allegations has been instituted by the Complainant in any court or before any other commission within the Commonwealth of Pennsylvania as follows:

This charge will be referred to the EEOC for the purpose of dual filing.

6. The Complainant prays that Respondent be required to:

(a) Make the Complainant whole.

(b) Eliminate all unlawful discriminatory practice(s) and procedure(s).

(c) Remedy the discriminatory effect of past practice(s) and procedure(s).

(d) Take further affirmative action necessary and appropriate to remedy the violation complained of herein.

(e) Provide such further relief as the Commission deems necessary and appropriate.

VERIFICATION

I hereby verify that the statements contained in this complaint are true and correct to the best of my knowledge, information, and belief. I understand that false statements herein are made subject to the penalties of 18 P.A.C.A. Section 4904, relating to unsworn falsification to authorities.

8/24/18
(Date Signed)

(Signature)

Caroline Alesiani

redacted

Philadelphia, PA 19147

Exhibit “2”

U.S. EQUAL OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Caroline Alesiani**
redacted
 Philadelphia, PA 19147

From: **Philadelphia District Office**
801 Market Street
Suite 1000
Philadelphia, PA 19107

On behalf of person(s) aggrieved whose identity is
 CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

17F-2019-60165

Kurt Jung
State, Local & Tribal Program Manager

(267) 589-9749

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

More than 180 days have passed since the filing of this charge.

Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.

The EEOC is terminating its processing of this charge.

The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, **the paragraph marked below applies to your case:**

The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.

The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

02/11/2021

Enclosures(s)

Jamie R. Williamson
 District Director

(Date Issued)

cc: **EDUCATIONAL COMMISSION FOR FOREIGN
 MEDICAL GRADUATES**

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